

W. R. C. CROLEY

IBLA 77-103

Decided August 24, 1977

Appeal from decision of the Alaska State Office, Bureau of Land Management, declaring appellant's mining claims null and void.

Affirmed.

1. Mining Claims: Withdrawn Land

Mining claims located on land previously withdrawn from entry under the mining laws are properly declared null and void ab initio.

2. Administrative Authority: Generally--Federal Employees and Officers: Authority to Bind Government

Reliance upon erroneous or incomplete information provided by BLM employees cannot create any rights not authorized by law.

APPEARANCES: W. R. C. Croley, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

W. R. C. Croley appeals from decisions of the Alaska State Office, Bureau of Land Management (BLM), declaring null and void his Rainbow Mining #1 through #13 mining locations (decision F-22990, dated November 22, 1976) and his C.B.S. #1 through #5 mining locations (undated decision, F-23004). Croley's location notices, which were recorded October 7, 1975, and May 13, 1975, respectively, describe claims which lie within the boundaries of the land area withdrawn from all forms of appropriation by Public Land Order No. 5250 of September 14, 1972.

Appellant Croley, in his notice of appeal, requested an extension of 6 months to prepare his statement of reasons for appeal. By order dated February 18, 1977, we granted this request for extension, but appellant has yet to submit his statement of reasons.

The extended period for filing such a submission having expired on June 30, we will decide Croley's appeal on the basis of the facts as they appear in the record and decision below.

[1] The mining claim location notices filed by Croley in the Fairbanks Recording District confirm the finding below that the lands here at issue lie within the boundaries of the PLO 5250 withdrawal, and we note that the withdrawal predates Croley's locations. It is a well established matter that mining claims located upon lands previously withdrawn from all forms of entry are null and void ab initio. Robert L. Beery, 25 IBLA 287, 83 I.D. 249 (1976); John Boyd Parsons, 22 IBLA 328 (1975).

[2] Appellant Croley, in a December 22, 1976, letter to the Fairbanks District Office, BLM, stated that he had personally checked with the Anchorage and Fairbanks BLM offices regarding the status of the subject lands and had been assured that the lands were available for entry under the mining laws. As we have held in the past, reliance upon erroneous or incomplete information provided by BLM employees cannot create any rights not authorized by law. John F. Brown, 22 IBLA 133 (1975); see also, United States v. Bert L. Johnson, 23 IBLA 349 (1976). PLO 5250 may have been the subject of some confusion in that it withdrew lands in connection with the Alaska Native Claims Settlement Act of December 18, 1971, which act would appear to terminate the withdrawal of the lands here at issue at the end of 2 years. ^{1/} The PLO 5250 withdrawal, however, was made for classification purposes as well as in aid of legislation, and thus the effect of the withdrawal continues even now, contrary statements by BLM employees notwithstanding.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Frederick Fishman
Administrative Judge

^{1/} See 85 Stat. 688, 708 (1971); 43 U.S.C. § 1601 et seq. (19_).

